



Rule Fact Sheet

May 11, 2011

DEVELOPMENT OF RULE AMENDMENT CONCERNING GENERAL CONSTRUCTION PERMITS FOR WATER MAINS

LSA Document #10-403

Overview

The Indiana Department of Environmental Management (IDEM) has developed proposed rule language concerning eligibility for general construction permits for water mains. This proposed rule is to be presented to the Water Pollution Control Board (board) on May 11, 2011, for consideration of final adoption.

Citations Affected

This rulemaking amends 327 IAC 8-3.5-3 by repealing subsection (c).

Affected Persons

This rule affects applicants for a water main project funded in whole or in part through the state revolving fund (SRF)

Reason(s) for the Rule

Under current rules, a water main project funded in whole or in part through the SRF is prohibited from applying for a general permit. This prohibition was included in 327 IAC 8-3.5 since its origination in 1999, but it has since been determined by IDEM that the prohibition is not necessary because a general construction permit is considered to be satisfactory for a water main project that is funded through the state revolving fund.

Economic Impact of the Rule

Water main extension projects reviewed for funding by the SRF have ranged in cost from \$100,000 to \$100,000,000. Deleting the prohibition against a water main project funded in whole or in part through the SRF from being eligible to receive a general construction permit

will cause no fiscal impact. The fee schedule under the general construction permit notice of intent (NOI) application for a water main extension project is based on the amount of linear feet of water main to be constructed and has the same costs per length as under the individual construction permit.

Benefits of the Rule

Elimination of the prohibition against a general permit for a water main project funded in whole or in part through the SRF should lessen the work required of an applicant to fill out the state application form. The NOI for a general construction permit for a water main extension is a two page form (state form 49008), and it is specific to water main extension projects. The individual construction permit application form (state form 35058) for a public water system is an 11 page form that contains portions applicable to well construction, pumping facility construction, storage facility construction, chemical addition, and water treatment facility construction in addition to the portion used for the water main extension application.

Description of the Rulemaking Project

No workgroup was formed for this rulemaking because no controversy was anticipated in allowing water main extension projects to be eligible for general permits.

Scheduled Hearings

First Public Hearing: November 10, 2010, at the WPCB meeting held at Indiana Government Center South, Indianapolis, Indiana.

Second Public Hearing: May 11, 2011, at the WPCB meeting held at Indiana Government Center South, Indianapolis, Indiana.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

There is no applicable federal law.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the Indiana Register. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the department's responses to comments from the first comment period and the draft rule.

Notice of the first hearing on the rule is also published in the Indiana Register. The Water Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule, also known as the draft rule as preliminarily adopted, is published in the Indiana Register after preliminary adoption. If the proposed rule is substantively different from the draft rule, a third written comment period is required. After notice in the Indiana Register, the second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule becomes effective 30 days after filing with the Legislative Services Agency.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232-8635 or technical information about the rule can be obtained from William Harkins, Technical Review Coordinator, Indiana Finance Authority, (317) 234-4862 or (800) 451-6027 (in Indiana).